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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/686,526
Filing Date: October 16, 2003
Appellant(s): KUROSAWA, SHIGERU

Frederick E. Cooperrider
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/2/08 appealing from the Office action mailed 4/11/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,912,705	Saruwatari	6-1999
6,639,626	Kubo et al.	10-2003
US 2002/0058536	Horii et al.	5-2002

(9) Grounds of Rejection

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5,10,12-15,18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Saruwatari (US Patent 5,912,705).

Regarding claim 1, Saruwatari discloses a portable communication apparatus (fig. 1) comprising:

a) an image-capturing section (fig. 1,num. 11) for capturing an image depending on an operation of a shutter key and for sensing images in real-time;

b) a display (fig. 1,num. 17) that includes a viewfinder display ("viewfinder" in col. 2, line 24) that displays said real-time sensed images and that includes a reference frame (fig. 4C,num. 42b) that indicates a predetermined optimal size (or "desired small area" in col. 2, line 22 is optimal according to the desires of a user and is predetermined relative to fig. 1, num. 20 that determines the area before any of the other remaining elements in fig. 1. Since 4C, num. 42b represents the end product of the predetermined optimal size or said desired small area, 42b is an indication that the desired small area was used to arrive at 42b) of characters to achieve a predetermined success rate (or better character recognition than the prior art) for character recognition for a character positioned within the reference frame; and

c) a character recognition section (fig. 1,num. 15) for recognizing a character from a captured image.

Regarding claim 2, Saruwatari discloses the portable communication apparatus according to claim 1, wherein said display further displays the captured image, wherein said display further comprises a character-size adjustment indicator (fig. 5: S12) that includes the reference frame such that a user moves said portable communication apparatus to image at least a portion of the characters of said captured image to fit approximately into said reference frame.

Regarding claim 3, Saruwatari discloses the portable communication apparatus according to claim 2, wherein the character-size adjustment indicator appears on the display when the portable communication apparatus is set to a character recognition mode (represented in fig. 5 as numeral S2).

Claim 4 structural limitations were addressed in claim 2 and includes intended use which is not given weight in an apparatus claim.

Regarding claim 5, Saruwatari discloses the portable communication apparatus according to claim 2, wherein the reference frame (fig. 4C,num. 42b) is a rectangle (as shown in fig. 4C,num. 42b) and is oriented horizontally (as shown in fig. 4C,num. 42b) with respect to the display.

Regarding claim 10, Saruwatari discloses the portable communication apparatus according to claim 1, further comprising:

- a) a memory (fig. 1,num. 14) storing a plurality of recognition criterion (or character recognition program that has recognition criteria for each of "pictorial symbols, foreign languages and ruled lines" in col. 9, lines 16,17) each corresponding to a different type of character string;

- b) wherein the character recognition section uses one of the plurality of recognition criterion to recognize a character from the captured image.

Regarding claim 12, Saruwatari discloses a data input method in a portable communication apparatus having an image-capturing function of capturing an image, the method comprising:

- a) capturing an image (fig. 1,num. 11) depending on an operation of a shutter key (fig. 1,num. 12); and

- b) recognizing a character (fig. 1,num. 15) from a captured image to enter (to fig.1,num. 19 using the signal between fig. 1,numerals 15 and 19 for entering) the character as input data,

c) wherein said portable communication apparatus comprises a viewfinder display ("viewfinder" in col. 2, line 24) that displays images sensed in real-time and a reference frame (corresponding to one of "plurality of areas" in col. 5, line 67) that indicates an optimal size (corresponding to fig. 6: S16 that goes through an iterative process until a set of criteria is met as represented as the output "YES" of said S16) for characters to achieve a predetermined success rate for character recognition (corresponding to "achieving the higher speed and higher accuracy of character recognition" in col. 3, lines 43,44 which means that Saruwatari's invention was designed or predetermined to have an accurate or successful recognition with a faster rate or speed of recognition in addition to being accurate or successful) of a character positioned within the reference frame, and

d) wherein said recognizing a character recognizes a character (as represented in fig. 4C,num. 42 which corresponds to said one of plurality of areas) positioned within said reference frame (fig. 4C,num. 42) when said image is captured.

Regarding claim 13, Suwatari discloses a method for recognizing characters in a portable communication apparatus having an image-capturing device and a display, the method comprising:

a) setting (as shown by the shaded portion of fig. 8G) a character-size adjustment indicator (said shaded portion that indicates a size in fig. 6:S16) on the display, wherein the character-size adjustment indicator comprises a reference frame (said shaded portion) having a size which provides a sufficiently high success rate (corresponding to the YES output of fig. 6: S16) in character recognition when one or more characters are approximately fitted into said reference frame;

c) capturing an image (fig. 8D, num. 81) depending on an operation of a shutter key (fig. 1,num. 12) when a character displayed on the display fits into the reference frame;

d) recognizing the character (fig. 1,num. 15) within the reference frame from a captured image; and

e) displaying a recognized character (fig. 5:S11) in a predetermined display area ("predetermined portion" in col. 8, line 35) on the display (fig. 4C, num. 41).

Regarding claim 14, Suwatari discloses the method according to claim 13, wherein the capturing an image comprises:

a) image-processing (fig. 1,num. 13) the captured image to produce a processed image (fig. 4A,num. 41);

b) clipping out (as shown in fig. 4A: SS2) a portion of the processed image within the reference frame (fig. 4A,num. 42); and

c) recognizing the character (fig. 1,num. 15) from the clipped portion of the processed image.

Claim 15 is rejected the same as claim 14. Thus, argument similar to that presented above for claim 14 is equally applicable to claim 15.

Claim 18 is rejected the same as claim 10. Thus, argument similar to that presented above for claim 10 is equally applicable to claim 18.

Claim 20 is rejected the same as claim 13. Thus, argument similar to that presented above for claim 13 is equally applicable to claim 20 except for the additional limitation of a medium as disclosed in Saruwatari in fig. 1,num. 14.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saruwatari (US Patent 5,912,705) in view of Kubo et al. (US Patent 6,639,626 B1).

Regarding claim 6, Saruwatari teaches a photo-taking switch in fig. 1, num. 12 that captures a picture when activated.

Kubo teaches a shutter button in fig. 13,num. 74 along with a timer in fig. 13,num. 75 and claim 6 of:

a) a timer (fig. 13,num. 75) that delays an image-capturing operation of the image-capturing section (fig. 13,num. 52) by a predetermined time period after an operation of the shutter key (fig. 13,num. 74) has been completed.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Saruwatari's photo-taking switch with Kubo's shutter button, because Kubo's teaching is able to avoid problems with quick moving objects in col. 1, lines 1-15 as can be encountered in Saruwatari's natural pictures of landscapes that inherently have quick moving objects such as animals.

Regarding claim 7, Kubo of the combination teaches the portable communication apparatus according to claim 6, wherein the predetermined time period is set through an input device (fig. 8,num. 64) of the portable communication apparatus.

Claims 8 and 17 are rejected the same as claim 6. Thus, argument similar to that presented above for claim 6 is equally applicable to claims 8 and 17.

5. Claims 9,11,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saruwatari (US Patent 5,912,705) in view of Horii et al. (US Patent Application Publication No.: (US 2002/0058536 A1).

Regarding claim 9, Saruwatari teaches that cameras are used for character recognition in the related background art section in col. 1, lines to 20 to col. 2, line 15.

Horri teaches a camera that is used for character recognition and claim 9 of

- a) a program memory (fig. 1F, num. 151) storing a plurality of programs including a mailer program (fig. 7A, num. 515) and a browser program (fig. 7A, num. 509); and
- b) a processor (fig. 1F,num. 150) for executing at least one program, wherein
- c) the processor starts the mailer program when a string of the recognized characters represents an e-mail address (corresponding to fig. 7A,num. 515),

- d) the processor starts the browser program when a string of the recognized characters represents a URL (uniform resource locator) (corresponding to fig. 7A,num. 509), and
- e) the processor starts making a call at the phone number when a string of the recognized characters represents a phone number (corresponding to fig. 7A,num. 507).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Saruwatari's teaching of camera's that use character recognition with Horri's teaching of a camera with character recognition, because Horri's camera enables "eas[y]" in paragraph [0099], line 9 communication.

Claim 11 is rejected the same as claim 10. Thus, argument similar to that presented above for claim 10 is equally applicable to claim 11.

Regarding claim 16, Horri discloses the method according to claim 13, further comprising:

- a) repeating capturing an image (corresponding to fig. 9A and 9B), recognizing the character (fig. 9B,num. 572) , and displaying a recognized character (fig. 9D) by sequentially selecting portions of a string of characters displayed on the display (as done in figures 9A and 9B), each portion including a character which fits into the reference frame, wherein a plurality of recognized characters are displayed on the display by combining the portions in series, each of which includes a recognized character.

Claim 19 is rejected the same as claim 9. Thus, argument similar to that presented above for claim 9 is equally applicable to claim 19.

(10) Response to Argument

As to claims 1 and 4 rejected under 102(b), Appellants state that there is no predetermined reference frame in Saruwatari. The examiner disagrees since Saruwatari teaches "a character area is designated" in col. 8, line 58-67 which corresponds to any one of fig. 4A's or 4B's or 4C's AREA DESIGNATION. Thus, 4A: AREA DESIGNATION or 4B: AREA DESIGNATION or 4C: AREA DESIGNATION is designated. Note that the claimed predetermined reference frame has no relative relationship specified in the claims. The claimed predetermined reference frame is not clearly stated as to being relative to what feature in the claims. In addition, claim 1 does not state "predetermined reference frame". Claim 1 only states "a reference frame that indicates a predetermined optimal size of characters". Saruwatari also designates an area designation 42 (the reference frame) that indicates a predetermined optimal size of a character.

Appellants state that there is no predetermined reference frame to be optimal in size for character recognition, based on a success rate if the character is positioned within the reference frame. The examiner disagrees since Saruwatari teaches said predetermined reference frame, which corresponds to said AREA DESIGNATION, to be optimal in size, which corresponds to "set to a desired small area" in col. 2, lines 21-24, based on an implied success rate that is not as high as a "higher accuracy of character

recognition" in col. 3, lines 35-44 if the character is positioned within the reference frame to result in said higher accuracy of character recognition.

Appellants state that Saruwatari's col. 2, lines 21-24's does not refer to a predetermined area for character recognition and instead refers to an area set by a user's gaze. The examiner disagrees since a user has to mentally determine an area via gazing in order set the area. Thus, the mentally determined area is a predetermined area relative to the setting of said area by a user's gaze. Once the area has been designated in fig. 4A:42, 42 is a predetermined area relative to any successive steps of fig. 4A:SS2 and SS3. With respect to fig. 4B, Saruwatari teaches a predetermined area in fig. 4B:SS5:42 that is predetermined relative to a corresponding zoom in fig. 4B:SS6:42 of said area 42 in fig. 4B:SS5:42.

Appellants state that Saruwatari does not teach a predetermined reference frame that is designed to achieve a predetermined success rate for character recognition. The examiner disagrees since Saruwatari teaches a "higher accuracy of character recognition" in col. 3, lines 36-44 of the character area "to be displayed" in col. 3, lines 36-44. The higher accuracy of character recognition is predetermined relative to the display of the recognition that displays a to be displayed character area.

Appellants state that Saruwatari does not teach a display that includes a view finder display that displays said real-time sensed images and that includes a reference frame that indicates a predetermined optimal size of characters to achieve a predetermined success rate for character recognition for a character positioned within the reference frame. The examiner disagrees since Saruwatari teaches a display (fig. 1:17) that includes a view finder display ("viewfinder" in col. 2, lines 22-25) that displays said real-time sensed images (as shown in fig. 4A:SS1) and that includes a reference frame (fig. 4A:SS1:42) that indicates a predetermined optimal size ("small desired area" in col. 2, lines 22-25) of characters to achieve a predetermined success rate for character recognition ("higher accuracy of character recognition" in col. 3, lines 35-44 that is predetermined relative to a display) for a character (represented in fig. 4A:SS1 as 42) positioned (corresponding to corners A and A' in fig. 4A:SS1:42) within the reference frame (represented in fig. 4A:SS1 as 42).

Appellants state that claim 4 was improperly rejected. The examiner disagrees. Since claim 4's structure of the claimed character-size adjustment indicator was addressed to correspond to fig. 5:S12 with the surrounding functional limitations as intended use since the functional limitations are not active and become active when the portable communication apparatus is set then the claimed character-size adjustment indicator can be fixed on the display. However, the claim does not explicitly claim setting

the portable communication apparatus so that the character-size adjustment indicator can be fixed on the display.

As to claims 6-8 and 17 rejected under 103 (a), Appellants state that Kubo does not teach a predetermined time delay after operation of the shutter key. The examiner disagrees since Kubo teaches a timing chart in fig. 7 that shows an operation of a SHUTTER BUTTON 9 after which shows a time delay of Td and Td'.

Appellants state that this rationale would be inadequate. The examiner disagrees since Saruwatari has an interest in "natural pictures" in col. 3, lines 25-44. And Kubo provides a larger image of moving objects via a two CCD camera that has a time delay between the CCDs. Such a feature of capturing larger images obtained by the time delay with moving objects would be desirable to Saruwatari's interest of "natural pictures" in col. 3, lines 35-44 to obtain larger natural pictures with moving objects.

Appellants state that Kubo would not apply in the environment of Saruwatari since Saruwatari does not have two CCD sensors. The examiner disagrees since Kubo modifies single CCD cameras such as Saruwatari's single CCD in fig. 1:3 with two CCDs.

Appellants states that the rejection of record fails to provide a reasonable motivation to modify Saruwatari by adding a predetermined time delay after pressing the shutter key. The examiner disagrees since the addition of the predetermined time delay of said Td and Td' that is predetermined relative to fig. 7:Texp enables obtaining a larger image that would be desirable in Saruwatari's interest in natural pictures to obtain a larger natural pictures that can include moving objects.

As to claims 9, 11, 18 and 19 rejected under 103 (a), Appellants state that Horii is non-analogous to Saruwatari. The examiner disagrees since both references as directed to cameras. Saruwatari teaches a "photographing apparatus (camera)" in col. 2, lines 18-20 and Horii teaches a "camera" in paragraph [0002]. Thus, both references are of the camera arts.

Appellants state that there would be no reason to modify the camera of Saruwatari for the reason described in Horii's [0099]. The examiner disagrees since Horii teaches a use of the product of character recognition as done in Saruwatari that makes communication easier. Thus, Saruwatari's character recognition can be used as combined with Horii to make communication easier which is a goal in Saruwatari by providing readable characters that cannot be read and translating a language as discussed in col. 6, lines 10-18 of Saruwatari. Thus, by adding Horri's use of character recognition to Saruwatari provides another use to Saruwatari's goal of providing better information that is used for communication than the information in original state that can not clearly be seen or be understood.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "predetermined fixed size reference frame" on page 11, 1st paragraph and "reference frame presented on the viewfinder" on page 11, 4th paragraph and "predetermined reference frame displayed on the viewfinder" on page 11, 4th paragraph and "portable communication apparatus" on page 12, 3rd paragraph and "displaying a pre-determined window into which the user will move the portion of interest for character recognition" on page 12, 3rd paragraph and "predetermined time delay...relative to a character recognition processing" on page 15, 2nd paragraph) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dennis Rosario/

Examiner, Art Unit 2624

Conferees:

Art Unit: 2624

Matthew Bella

/Matthew C Bella/

Supervisory Patent Examiner, Art Unit 2624

Samir Ahmed

/Samir A. Ahmed/

Supervisory Patent Examiner, Art Unit 2624